



Gary D. Sesser  
Partner

Direct Dial: 212-238-8820  
E-mail: sesser@clm.com

**CARTER LEDYARD & MILBURN LLP**  
Counselors at Law

2 Wall Street  
New York, NY 10005-2072

Tel (212) 732-3200  
Fax (212) 732-3232

701 8th Street, N.W., Suite 410  
Washington, DC 20001-3893  
(202) 898-1515

570 Lexington Avenue  
New York, NY 10022-6856  
(212) 371-2720

February 17, 2010

**VIA HAND DELIVERY**

Honorable Deborah A. Batts  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 2510  
New York, New York 10007

FEB 18 2010

Re: Gilbert v. Indiana, Case No. 09-CV-6352

Dear Judge Batts:

We represent Defendant Robert Indiana ("Defendant") in the above-referenced action.

We are writing to follow up on a telephone call we received on February 9, 2010 from Mr. George O'Malley stating that the Court had ordered this dispute to mediation and setting forth a briefing order and mediation date of March 24, 2010, with briefs due to the mediator one week earlier.

We assume that this mediation order is not intended to supersede the Court's January 22, 2009 order (copy enclosed), issued at our Rule 16 conference, requiring the parties to meet in Maine and thereafter report to the Court by April 9, 2009 on whether the parties seek further settlement discussions with the Court's involvement or a discovery scheduling order. The parties agreed that their settlement meeting would take place in March to accommodate the trial schedule of Mr. Gilbert's counsel.

We respectfully request that the Court adjourn the mediation order to allow sufficient time for the court-ordered settlement discussions to take place and potentially resolve the dispute before the parties incur the costs of mediation.

Respectfully submitted,

Gary D. Sesser

**SO ORDERED**

cc: (Darius) Keyhani Esq. (via email and facsimile)

6570229

DEBORAH A. BATTS  
UNITED STATES DISTRICT JUDGE

March 2, 2010

**MEMO ENDORSED**

Granted. Parties  
to have settlement  
discussions per Jan  
22, 2010 order.  
Mediation to take place  
at end of May 2010 if  
discussions not successful.  
Parties to coordinate with  
mediation on dates.

03/02/10